

VI. Section 41, Rules regulating Forest Produce in Transit.

C. TRANSIT BY SEA—*concluded.*

(ii) an officer belonging to one or other of the classes following, that is—

Mámlatdár.
Head Kárkúns.
General Duty Kárkúns.

Talátis.
Kulkarnis.
Mahálkaris.*

299. On careful consideration His Excellency the Governor in Council has come to the conclusion that it is unnecessary to extend the list of articles of minor forest produce for which passes should be required before their export by sea is permitted.†

Shipments of certain minor forest produce do not require passes.

Powers of Officers of the Customs, Salt and A'bkári Departments under sections 41 and 52, Indian Forest Act.

300. Officers of the Customs, Salt and A'bkári Departments should be appointed to be Forest Officers for the purpose of carrying out the provisions of section 52 of the Indian Forest Act, and Rule 14 of the rules under section 41 thereof.

D. Passes and Pass Books.

301. The forest pass required by Rule 3 of the rules under section 41 of the Indian Forest Act, 1878 (Government Notification No. 4133, dated 9th August 1880), for regulating the transit of timber and other forest produce, should be in the following form :—

FOREST PASS.

No.
From
To
Road

Name of Holder.	Description of Produce.	Quantity.	Value.			Time allowed.
			Rs.	a.	p.	

Camp

Date

Pass to be returned to

Signature.

* Government Resolution No. 9670, dated 1st December 1895.

† Government Resolution No. 1956, dated 24th March 1900.

VI. Section 41, Rules regulating Forest Produce in Transit.

D. PASSES AND PASS BOOKS—concluded.

Pass should be in duplicate. (1) The pass should be in duplicate, so that the outer may be issued and the inner or counterfoil may be retained in the office of issue.

Size of pass. (2) Each pass should measure six inches by four, so that a half sheet of foolscap should contain two duplicate passes.

Size of pass books. (3) The passes should be bound in books of two sizes, viz.—

Small size, containing 12 passes.
Large " " 100 "

Price of books. (4) The charge for passes—*vide* Rule 13—should be at the following rates :—

(a) Single pass	...	...	...	...	2-pies.	3
(b) A book of 12 passes	25	...	...	...	2 annas.	5
(c) A book of 100 passes	5	...	...	...	8 annas.	1

Class of pass according to the colour of the paper. (5) There should be four classes of passes; each should be printed on paper of a different distinguishing colour as under :—

Foreign pass	...	...	...	...	Colour green.
Ināmdār's pass	...	...	...	...	" white.
Mālki number pass	...	...	...	...	" yellow.
Government pass	...	...	...	...	" red.

(6) The office stamp of the Principal Forest Officer of the district from which the pass or pass book is supplied should be imprinted upon the dividing line between the two copies of the pass, so that one-half of the stamps should appear upon the counterfoil and the other upon the duplicate copy issued.

Foreign States may use their own form of pass. There is nothing in the above rules to prevent Foreign States from using their own registered passes in preference to passes obtained from the Forest Department.*

VII. SECTIONS 45 AND 51, RULES REGARDING DRIFT AND STRANDED TIMBER.

302. Flotsam or Jetsam, such as a cask, boat, table or raft, cannot be deemed to be drift timber, within the meaning of section 45 of the Indian Forest Act, 1878. The definition of the word "timber" as regards drift and stranded timber. "timber" in this Act does not imply that cart-wheels, mortars, canoes, etc., are included in the term but merely that all wood, that is to say, the vegetable produce known as "wood" whether it has been cut and shaped for any purpose or is in its pristine form, is timber.

* Government Resolutions No. 1559, dated 8th March 1882; and No. 2977, dated 16th April 1883.

VII. Sections 45 and 51, Rules regarding Drift and Stranded Timber.

For instance no one would describe a derelict as drift wood, though a floating spar, masts, boards, or other parts of boats, beams, rafters, etc., from houses destroyed by floods, or which may have in any way been washed away, might without anything strange in the language be denominated as wood.*

NOTE.—Since this opinion was recorded by the Remembrancer of Legal Affairs, the definition of the term "timber" is given in section 2 of Act VII of 1878, as amended by Act V of 1890, *vis.*, "Timber includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not."

303. (1) Any person may collect timber of any of the descriptions set forth in section 45 of the Act, and, pending the bringing of the same to the proper dépôt for the reception of drift timber, may keep the same in his own custody, but he shall report his having done so within 24 hours to the nearest Forest Officer.

Any person may collect timber as described in section 45 of the Act, subject on certain conditions.

If it appears to the Forest Officer in charge of the Range in which the timber has been found that the cost of collecting and conveying such timber to such dépôt is likely to equal or exceed the probable proceeds of its sale at the dépôt, the timber,

(a) if unmarked, may be sold by or under the orders of the Divisional Forest Officer on the spot where it is found or collected;

(b) if marked, shall not be collected by a Forest Officer.†

303a. (2) Any person may register in the office of the Conservator of Forests one or more boats for use in salving and collecting timber, on payment of a fee of one rupee for each boat.

Registration of boats.

Such registration shall hold good for the period of one year only, but may be repeated from year to year.

303b. (3) Every person, whether a Forest Officer or not who collects any such timber, shall be entitled to receive a recompense equal to 50 per cent. of the estimated value of the timber. Such estimate shall be made by the Forest Officer not lower in rank than an Assistant Conservator of Forests, whom the Conservator specially authorizes in this behalf, and the recompense shall be paid at once by Government:

Extent to which recompense can be sanctioned for salving drift and stranded timber.

Provided that in special cases the Conservator may increase the amount of the recompense to a sum not exceeding 75 per cent. of the value of the timber collected.‡

* L. R. No. 1255, dated 21st September 1882, *vide* Government Resolution No. 6949, dated 6th October 1882.

† The last portion of Rule 1 has been added by Government Resolution No. 4875, dated 23rd January 1896.

‡ Rule 3, as given above, is the amendment made by Notification No. 8574, dated 2nd December 1890.

VII. Sections 45 and 51, Rules regarding Drift and Stranded Timber.

303c. (4) If the timber collected shall be proved to be the property of any person other than Government, such person shall be liable to pay to Government, under section 50 of the Act, the following amounts, namely :—

Regarding cost of salving timber.

(a) On account of salving and collecting, the actual amount of recompense paid to the person who collected it ;

(b) On account of moving, the actual cost incurred in moving it to the dépôt for the reception of drift timber ;

(c) On account of storing, such fees as shall from time to time be fixed by the Conservator of Forests, with the previous sanction of Government, for the storing of timber at such dépôt.

303d. (5) No person other than a Forest Officer authorized in this behalf by the Conservator of Forests shall mark any timber, or have in his possession any hammer for marking any timber to which these rules refer.

Regarding marking of drift and stranded timber.

303e. (6) Any person who breaks Rule 1 or Rule 5 shall be punishable with imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees or both.*

Punishment for breaking Rule 1 or 5.

Additions to rules set forth in sections 303 to 303e for control of drift wood on the River Indus.

304. The following additions have been made to the the above rules regarding drift and stranded wood on the River Indus, namely :—

(1) The Registrar of Boats on the River Indus shall, for the purpose of section 45 of the Indian Forest Act, 1878, be a Forest Officer entitled to collect all timber found a drift, beached, stranded, or sunk on, or on the banks or islands of, or in, the River Indus, and its tidal channels.

Registrar of Boats.

(2) With the sanction of the Commissioner in Sind, the Registrar of Boats may grant permission to any person to collect such timber as aforesaid, subject to the provisions of the Indian Forest Act, 1878, and of all rules in force thereunder.

Permission to collect timber.

(3) With the like sanction the Registrar of Boats may sell or otherwise dispose of any such timber as aforesaid, the ownership of which vests, or, under section 48 of the Indian Forest Act, 1878, shall have vested, in Government.

Right to sell dispose of timber.

(4) Subject to provisions of Rule 5, every person who collects, moves, stores or disposes of any such timber as aforesaid without permission of the Registrar of Boats, or other-

Penalty.

VII. Sections 45 and 51, Rules regarding Drift and Stranded Timber.

wise than in accordance with the provisions of the Indian Forest Act, 1878, and the rules thereunder, shall be punished for each offence with a fine which may extend to twenty rupees.

(5) Nothing in Rule 4 shall render it punishable for the inhabitants of the island of Sadhbella in the River Indus to collect drift wood floating on to or close to the island, provided that boats are not used for the purpose.*

Exemption.

VIII. SECTION 55, CONFISCATED PROPERTY.

305. A person cleared and cultivated a piece of land situated in a forest reserve. He was convicted and punished under section 25 of the Forest Act. The crop, too, raised on the land was cut and attached. The question was raised whether the crop came within the definition of forest produce as given in section 2 so as to allow of its disposal under section 55. The following opinion (No. 1060, dated 9th August 1884) was recorded by the Remembrancer of Legal Affairs:—

"The definition of the term 'forest produce' given in the Forest Act is not exhaustive, and reading the term in its ordinary sense it means anything which is produced in a forest, and it, therefore, includes, in my opinion, a crop raised in a forest reserve.

"I agree with the Collector that in the case he mentions the crop is the property of Government by accession, and, therefore, under section 55 of the Act, may be taken charge of by a Forest Officer."†

IX. SECTION 57, PERISHABLE MATERIAL.

306. The Divisional Forest Officers have been directed to see that in case any articles seized under section 52 of the Indian Forest Act, is subject to speedy decay, the fact is brought to the notice of the Magistrate concerned without delay, and he is requested to dispose of it at once under section 57 of the Act.

Disposal of perishable materials.

The Range Forest Officers should be held responsible for bringing without unnecessary delay to the notice of the Magistrate the fact of such property being in a perishable condition.‡

X. SECTION 63, ARRESTS.

307. A Forest Officer has no authority to keep in confinement any person charged with having committed a forest offence. A person who is arrested by a Forest Officer cannot be said to be 'charged with having committed a forest offence.'

Forest Officers may not keep persons in confinement.

* Notification No. 1111, dated 18th February 1902, *Bombay Government Gazette*, 1902, Part I, pages 297-298.

† Government Resolution No. 1060, dated 9th August 1884, *vide* Government Resolution No. 6910, dated 28th August 1884.

‡ Government Resolution No. 1058, dated 9th February 1897.

X. Section 63, Arrests.

Section 233 of the Indian Penal Code provides for a more serious kind of offence than such an act of negligence as that of a Forest Guard who negligently suffers a person arrested on suspicion of having committed a forest offence to escape, which can only be punished departmentally by fine, suspension or dismissal.*

308. The Conservators of Forests should issue orders to their subordinates that, in cases coming under section 63 of the Indian Forest Act, when the nearest Magistrate's Court is at a distance from the scene of the alleged offence and a Police station is within convenient access, an accused person who is ready and willing to give bail should be taken for that purpose to the Police station.

The Police Superintendents should be directed in communication with the District Magistrates, to issue orders to officers in charge of Police stations requiring them in these cases to take bail in accordance with Chapter XXXIX of the Criminal Procedure Code. It is not desirable to increase the number of Police stations, merely for the sake of giving a wider operation to these orders.†

XI. SECTION 67, POWERS TO COMPOUND OFFENCES.

A. Orders of Government regarding compounding cases and prosecution of offences.

309. (1) It is in the opinion of His Excellency the Governor in Council most undesirable that ignorant villagers should be prosecuted in the criminal Courts for taking from the Government forests a few twigs or small branches, or a little brushwood of inappreciable value. Such injudicious severity on the part of the Officers of the Forest Department is calculated to do more harm than good and to excite widespread dissatisfaction and angry feelings. In no instance, at all events, should a person be prosecuted for a first offence of so exceedingly trivial a nature. A warning on the part of the Forest Officer would suffice. But if after being detected and warned once or twice, the same person is again discovered cutting Government trees the circumstances of the case would be altered, and wilful and repeated infractions of the law may form a suitable and proper ground for criminal prosecution. As far as possible, however, such prosecutions should be avoided, and recourse should only be had to them when real injury is being caused to the Government forests, and when there is good reason to believe that the offender is deliberately and of set purpose transgressing the law.

* L. R. No. 1049, dated 5th September 1881, *vide* Government Resolution No. 5459, dated 21st September 1881.

† Government Resolutions No. 1702, dated 4th March 1884; and No. 8279, dated 2nd December 1885; and Government Notification No. 10364, dated 24th December 1885.